

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

AUDIT OFFICE

TM



DIVISION OF MEASUREMENT STANDARDS
PETROLEUM PRODUCTS PROGRAM

AUDIT REPORT #09-085

DIVISION OF MEASUREMENT STANDARDS
PETROLEUM PRODUCTS PROGRAM

AUDIT REPORT

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AUDIT REPORT NUMBER

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Mr. Ed Williams, Director
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The California Department of Food and Agriculture (CDFA), Division of Measurement Standards (DMS), requested the Audit Office to perform a limited scope fiscal and compliance audit of DMS operations expenditures as it relates to the Petroleum Products Program (PPP).

The objective of this audit was to determine whether certain activities and expenditures incurred by the PPP comply with the law and are appropriate. In addition, our office was to determine whether time records are kept by employees specifying the type of work conducted, whether memorandums of understanding/letters of understanding (MOUs/LOUs) appear to be in compliance with the State Administrative Manual for charges between programs, and whether resources are used efficiently in the PPP.

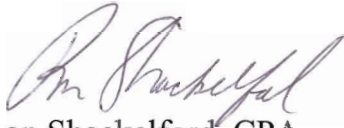
Furthermore, our audit scope was limited to July 1, 2006 through June 30, 2009. Although the scope was limited to these years, our office expanded the scope to include information that covered other years if it was readily accessible and/or may have assisted us in understanding a particular issue.

To accomplish the overall audit objectives, our audit methodology consisted of, but was not all inclusive of, reviewing the Program's:

- Compliance with various rules and regulations
- Employee and Policy Manuals
- Internal controls
- Employee interviews
- Budget reports and various financial related documents
- Expenses and supporting documentation
- Contracts
- Payroll documents
- Memorandums of understanding/letters of understanding (MOUs/LOUs)

We conducted our audit in accordance with Generally Accepted Government Auditing Standards, issued by the Comptroller General of the United States.

This audit report is intended for the information and use of the management of the CDFA.

A handwritten signature in dark ink, appearing to read "Ron Shackelford", is positioned above the printed name.

Ron Shackelford, CPA
Chief, Audit Office

EXECUTIVE SUMMARY

The California Department of Food & Agriculture (CDFA), Division of Measurement Standards (DMS) requested the CDFA Audit Office to perform a limited scope examination of the DMS's operating expenditures and practices as they relate to the administration of the Petroleum Products Program (PPP). The audit was requested in part due to the enactment of Senate Bill 260 (SB 260), which was chaptered into law in October 2009. SB 260 raised the maximum assessment paid to CDFA by various motor oil producers from \$0.02 per gallon to \$0.05 per gallon. The audit was also requested by a representative of the California Independent Oil Marketers Association. The producers and first importers of motor oil would be responsible for paying the increased assessment. Therefore, our office performed a limited scope examination of the DMS accounting records for the period of July 1, 2006 through June 30, 2009. We reviewed its financial accounting records, maintained by the CDFA Financial Services Branch (FSB), interviewed employees for job responsibilities, and reviewed existing internal controls over assets to determine whether the PPP was applying the best management practices and operating efficiently and effectively. In addition, our office performed a high level review of the information submitted by the PPP in support of SB 260 in attempts to verify its accuracy. Based on our examination, the following administrative weaknesses were noted:

- The Metrology, California Type Evaluation, Measurement Compliance, and Hydrogen Fuel Programs transferred \$1,269,000 of their expenses to the PPP over the three year period. Upon request for documentation, our Audit Office was provided a Memorandum of Understanding (MOU) between PPP and DMS's Metrology Branch (MB) and the Compliance and Evaluation Branch (CEB) where PPP would reimburse these branches at the end of each fiscal year. The effective date of the MOU was July 1, 1994. The reimbursed amounts were based on estimated percentages of staff time expended on PPP related activities. However, the DMS does not track the hours of work performed by its other branches for the PPP. DMS submitted documentation for the number of standards certified, record of devices tested, training provided to County staff, packages, labeling and advertising media inspected to support how the original estimated percentages of hours spent by MB and CEB were determined. Our office notes that DMS did not indicate that a review of the annual allocation has occurred since inception in 1994, to determine whether the allocations are reasonable.
- The DMS has another MOU with the CDFA Information Technology Services (IT) effective February 1, 2008 that resulted in the DMS's IT staff, consisting of three staff members, to transition to CDFA IT in support of the CDFA's IT Centralization effort. The DMS continues to fund the salaries, benefits, and operating expenses and equipment (OE&E) costs of the three staff members through the direct recovery process, whereby the Weighmaster/Petroleum Branch is charged \$24,560 monthly. The PPP is allocated 50% or \$12,325 of the total monthly costs. Our office notes the PPP does not require submission of IT time sheets or any other activity reports that

demonstrate the work provided by the three transitioned staff members is properly allocated to the PPP.

- The DMS does not require employees to maintain daily timekeeping records that specify the type of work performed by employees. The costs of 31 positions were allocated to the PPP at either 75% or 100% of labor costs without benefit of detailed time sheets or other time activity reports that would support the allocations or verify the information provided to support SB 260. Interviews and requested supporting documentation disclosed no daily timekeeping system in place and it has not been maintained as a requirement or priority for DMS. It should be noted that DMS employees do complete a monthly Standing Form 634, Absence and Additional Time Worked Report, (Std 634) whose primary objective is to track the use of compensated absences and earning of overtime by employees. However, the use of Std 634 is considered “negative” time accounting and does not provide for a mechanism to support hours billed at the Program level.
- Interviews with DMS management and staff and a review of accounting records show the allocation of the DMS Director’s salary and benefits at 75% to PPP. This amount is considerably higher than if the Directors’ personal services costs had been allocated based on the total personal services cost for each program. If the latter method would have been used, PPP would have absorbed only 42% or 43% of the Director’s personal services costs. In addition, a MOU between DMS and CDFA IT allowed for three DMS IT staff to transition to CDFA IT at an estimated monthly charge of \$12,325. Discussion with these former DMS IT transitioned staff disclosed that they do not always work on DMS projects. Furthermore, no detailed timekeeping records were available to support these charges. Prior to the transition, two of the three IT staff were being allocated 75% to PPP without tracking the specific type of work conducted.
- The PPP laboratory database system cannot provide readily verifiable and timely information. The current database is outdated, cannot be updated, and simple queries are not provided with confidence or in a timely manner. In addition, laboratory work load needs to be addressed and coordinated with other DMS branches in order to ensure a consistent and efficient collecting and processing of samples.
- The DMS does not have a system in place to monitor Voyager card costs associated with its fleet of 38 vehicles. The charge card system is used to purchase gasoline for vehicles and some petroleum samples. Currently, DMS employees are not reviewing the charges for appropriateness.
- The PPP complaint process from its four offices is only collected annually. Our office notes the data resides in four separate databases, the data is not handled uniformly, and the statistical data can only be accessed manually on an as-needed basis.
- The County Petroleum Subvention Contract invoices are not reviewed or maintained by the DMS administrative services branch to ensure the correct posting of costs to

the appropriate program. Our office noted a few minor instances in fiscal year (FY) 2006/07 where Weighmaster Enforcement Program (WEP) invoiced costs were charged to the PPP although they were not for PPP activities.

KEY RECOMMENDATIONS

1. *The PPP should determine whether the allocation of costs from various other internal programs was appropriate. Furthermore, DMS employees who conduct work for various programs should maintain a timekeeping system that specifies the type of work performed on a daily basis. This will allow costs to be tracked and appropriately allocated.*
2. *The PPP should require the CDFA IT to provide supporting documentation, such as employee time sheets, for the continuing monthly charge of \$12,325.*
3. *The DMS and the PPP should make improvements in the manner in which employees account for their time and activities. At a minimum, employees that are not 100% charged to a program should be required to complete a functional time sheet specifying the number of hours worked for each program on a monthly basis. The functional time sheets could be further supported by activity reports that further detail the work performed. The improved timekeeping system would provide justification that the work conducted was petroleum related and ensure accountability over expenditures.*
4. *In the instances when costs are allocated among different programs on a percentage basis, the DMS should maintain supporting documentation justifying the basis for such cost allocations. Furthermore, the allocation percentages should be reviewed on an annual basis to determine whether changes are needed.*
5. *The DMS should not solely allocate the Director's personal services costs to PPP and WEP. It would be more appropriate to charge the Director's personal services costs to DMS administrative services branch, where all costs are subsequently allocated among the other programs based on personal services costs.*
6. *The DMS and the PPP should update to a user-friendly database that is accessible to both chemistry laboratories, and provides reliable, timely, and verifiable information. In addition, the laboratory chemists should maintain a timekeeping or daily activity system that will allow them to develop and maintain standards for performing testing on their various products.*
7. *The DMS and the PPP should better coordinate the manner in which samples are collected and processed within its laboratories to ensure a more consistent and efficient workload.*
8. *The DMS should establish and maintain a system of checks and balances to ensure Voyager card costs associated with its fleet vehicles are proper and business related.*
9. *The DMS should distribute the Voyager post audit reports to its employees and their supervisors for review on a monthly basis to ensure all charges are related to PPP activities.*

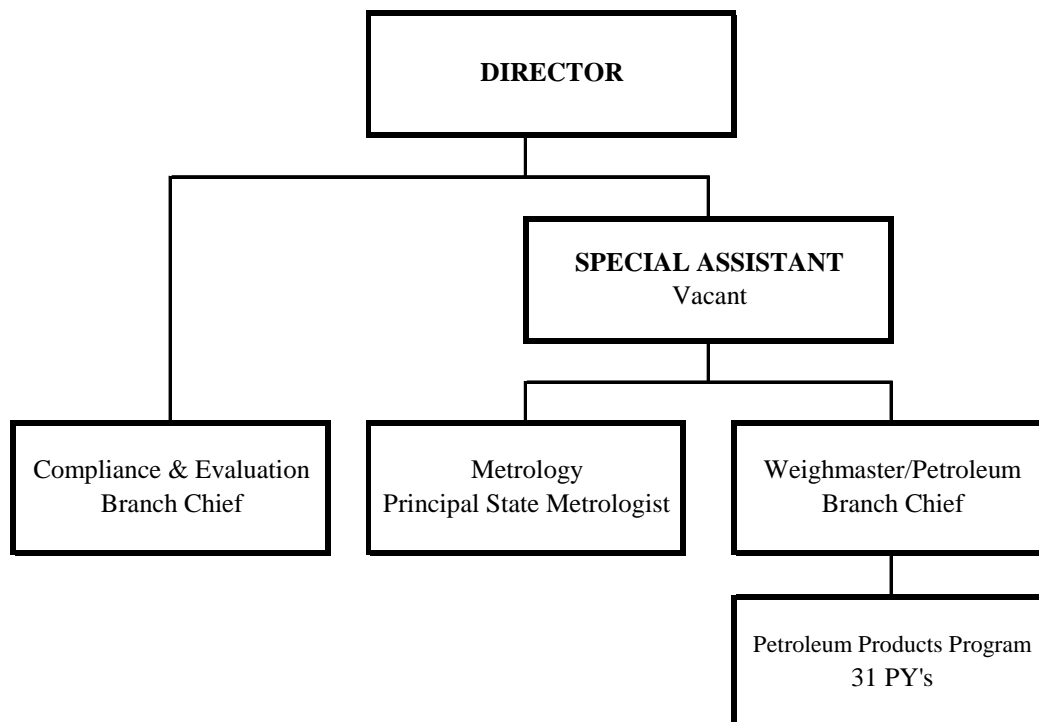
- 10. The PPP should establish and maintain a single electronic database for complaints. This process would make the complaint data readily accessible and retrievable for performing statistical analysis.*
- 11. The County Petroleum Subvention Contract invoices should be handled by the DMS centralized Administrative Services Branch in order to ensure that the appropriate supporting documentation is maintained, and the proper amounts are paid and posted to the correct program.*

BACKGROUND AND INTRODUCTION

Organization of the Division of Measurement Standards

The Division of Measurement Standards (DMS) is responsible for the enforcement of California Weights and Measures laws and regulations. The DMS activities are designed to (1) ensure the accuracy of commercial weighing and measuring devices; (2) verify the quantity of both bulk and packaged commodities; and (3) enforce quality, advertising and labeling standards for most petroleum products. The DMS works closely with county sealers of weights and measures who carry out the vast majority of weights and measures enforcement activities at the local level. The DMS is organized into three branches: (i) Compliance & Evaluation Branch, (ii) Metrology Branch, and (iii) Weighmaster/Petroleum Branch, that during the three-year audit period administered nine different programs. The DMS has a centralized administrative office in Sacramento and maintains field offices in Anaheim, Fresno, and Redding.

Division of Measurement Standards Organization Chart



Petroleum Products Program

The largest program DMS administers and manages is the PPP. In FY 08/09, PPP expenditures represented 46% of the total expenditures incurred by the DMS (Refer to *Table I* below for a summary of all programs administered by the DMS). Legislation enacted in 1979 allows for the PPP to be funded with a fee paid on each gallon of motor oil that is first produced, sold, or imported into California. The DMS, under the CDFA, can adopt regulations that prescribe the frequency of payments of the fee, the procedures for the payments, and any penalties for late payment.

Motor Oil Assessment fees that are collected by the DMS are intended to support the PPP. Section 13431 of the California Business and Professions Code Chapter 8, Title 4 of the California Code of Regulations requires "Motor Oil Dealers" to file a quarterly report identifying total assessable gallons of motor oil. During the audit period an assessment rate of (\$0.02) was charged on each gallon reported. Motor oil dealers represent any "person, firm, or corporation engaged in the business of producing, packaging, or otherwise preparing motor oil for market, or selling or distributing motor oil." The PPP is responsible for maintaining minimum quality standards for most automotive products (gasoline, gasoline/oxygenate blends, diesel fuel, motor oil, natural gas) sold in California.

Table 1 - DMS Administrated Programs (listed in order of annual expenditures)

Division of Measurement Standards Audit of Petroleum Products Program List of DMS Programs Administrated from Largest to Smallest Fiscal Year 2008/09				
Program Name	Total Expenses		Less: Recoveries	Net Fund Impact
1 Petroleum Products Program	\$ 4,355,349	46%	\$ (94,294)	\$ 4,261,471
2 Measurement Compliance Program	1,422,647	15%	(210,000)	1,212,647
3 Weighmaster Enforcement Program	1,710,494	18%	(38,837)	1,671,658
4 California Type Evaluation Program	1,000,183	11%	(155,658)	844,525
5 Metrology Program	477,183	5%	(80,000)	397,183
6 DMS Administration Costs	307,187	3%	(307,187)	-
7 Registered Services Agency Program	141,954	1%	(4,044)	137,910
8 Hydrogen Fuel Program	96,696	1%	(97,171)	(475)
9 California Measurement System	4,875	<1%	(350)	4,525
Total	\$ 9,516,568	100%	\$ (987,541)	\$ 8,529,444

Source: FSB Detail Report of Transactions

Summary of PPP Annual Expenditures

The assessment fee rate was set at the maximum allowable level of two cents (\$0.02) for each gallon of motor oil sold or purchased during our audit period. For the three-year audit period, the PPP had program expenses of \$4.13 million, \$4.43 million, and \$4.36 million for FY 06/07, 07/08, and 08/09, respectively. **Table 2** summarizes the PPP's personal services and operating expenses for the period FY 06/07 through FY 08/09.

Table 2 – Three year summary of Expenditures for PPP

Division of Measurement Standards Audit of Petroleum Products Program Summary of Expenditures For the three-year period FY 2006/07 through FY 2008/09			
	FY 2008/09	FY 2007/08	FY 2006/07
Salaries, Wages, and Benefits	\$ 2,265,898	\$ 2,230,455	\$ 2,159,150
Operating Expenses			
General Expenses	34,916	36,965	53,641
Printing, Postage, IT, Misc	15,422	17,663	22,583
Travel Expenses	36,009	34,323	29,897
Training	1,668	960	2,055
Facilities & Utilities	206,116	218,801	214,583
Internal/External Services	1,210	236	1,724
MOU Charges	537,985	571,580	422,829
CDFA Overhead Charges	319,358	354,972	337,149
Division of Measurement Standards Overhead	130,110	177,031	202,636
Pro Rata Central Admin Costs	173,151	190,457	125,642
Equipment	56,000	66,639	33,174
County Subvention Contracts	577,506	530,098	525,556
	<u>2,089,451</u>	<u>2,199,725</u>	<u>1,971,470</u>
Total Personal Services & OE&E	<u>\$ 4,355,348</u>	<u>\$ 4,430,181</u>	<u>\$ 4,130,620</u>
<i>Source: FSB Detail Report of Transactions</i> <i>Note: Accounted for on the Accrual Basis of Accounting</i>			

Declining Fund Balance for PPP Operations

All operating activities (revenues collected from motor oil assessments and payments for PPP expenses) are deposited and paid out of the CDFA Agriculture Fund (Ag Fund). A secondary (emergency) reserve for PPP operations is maintained in CDFA Agricultural Trust Fund (Ag Trust Fund). It should be noted that, for the three-year audit period, the balance in the Ag Trust Fund remained basically unchanged other than accruing interest.

Over the past three years, the PPP's operating reserve within the Ag Fund has dramatically decreased. In FY 08/09 the gap between revenues and expenses was approximately \$1.5 million. As a result, the cash reserve available for PPP operations in both the Ag Fund and

Ag Trust Fund decreased from approximately \$5 million dollars at the beginning of FY 06/07 to approximately \$1.3 million at the end of FY 08/09.

Necessity for Senate Bill 260

Concerned by the decline of its operating reserve, the CDFA, with the support of California Agricultural Commissioners and Sealers Association (CACSA), introduced Senate Bill 260 (SB 260) on February 24, 2009, an act to amend Section 13431 of the Business & Professions Code relating to petroleum products that would increase the maximum fee paid to the Department of Food & Agriculture's Division of Measurement Standards from \$0.02 to \$0.05 for each gallon of motor oil sold or purchased on or after January 1, 2010. While the PPP ensures minimum quality standards pertaining to most automotive products (gasoline, motor oil, brake fluid, etc.) and regulates the advertising and labeling of the products, the County Sealers are reimbursed for their enforcement of the code through individual contracts with CDFA. The funding of the County Sealers slightly exceeds \$500,000 per year. In addition, the PPP operates two laboratories in the State for the testing of routine and suspect samples. Products are removed from the marketplace and appropriate enforcement action is taken when substandard products are found.

As noted in SB 260, \$0.02 per gallon fee was the maximum allowable and had not been increased in 29 years. SB 260 was signed and chaptered into law in October 2009. Since the DMS was the source for the information specified in SB 260, our office attempted to review the information provided in support of the bill for accuracy.

REPORTABLE FINDINGS

LACK OF SUPPORT FOR INTRADEPARTMENTAL CHARGES

Various programs within the Division of Measurement Standards (DMS) programs

The Metrology, California Type Evaluation, Measurement Compliance, and Hydrogen Fuel Programs transferred \$1,269,000 of their expenses to the Petroleum Products Program (PPP) over the three-year period FY 06/07 through FY 08/09 (*See Table 3 below*). Upon our request as to the reason these costs were passed on to PPP, the DMS provided us with a copy of a Memorandum of Understanding (MOU) with an effective date of July 1, 1994. The MOU indicates that various programs would provide services to the PPP for petroleum-related activities in the areas of quantity testing of petroleum and automotive products, metrological verification of petroleum-related measurement standards, and enforcement of laws that regulate the accuracy of and the misuse of devices that measure and dispense petroleum and automotive products.

Table 3 – Three year summary of expenditures allocated to PPP from other DMS internal programs

CDFA Audit Office							
Audit of Petroleum Products Program							
Analysis of Direct Charge - Intra Departmental							
	<u>FY 2008/09</u>		<u>FY 2007/08</u>		<u>FY 2006/07</u>		
DMS Programs that Expenses were Transferred To:							
Metrology Program	\$	-	\$	-	\$	-	
California Measurement System		-		-		-	
California Type Evaluation Program		-		-		-	
Registered Services Agency Program		-		-		-	
Measurement Compliance Program		-		-		-	
Weighmaster Enforcement Program		152,744 28%		254,491 36%		82,115 16%	
Petroleum Products Program		390,085 72%		456,458 64%		422,638 84%	
Hydrogen Fuel Program		-		-		-	
DMS Administration Services Branch		-		-		-	
Total Applied Expenses	\$	<u>542,829</u> 100%	\$	<u>710,949</u> 100%	\$	<u>504,753</u> 100%	
DMS Program Expenses Transferred From:							
Metrology Program	\$	(80,000)	\$	(138,720)	\$	(106,457)	
California Type Evaluation Program		(155,658)		(210,423)		(273,296)	
Measurement Compliance Program		(210,000)		(279,440)		(125,000)	
Hydrogen Fuel Program		(97,171)		(82,366)		-	
Total Reduced Expenses	\$	<u>(542,829)</u>	\$	<u>(710,949)</u>	\$	<u>(504,753)</u>	

The DMS however does not have a method of tracking the hours of work performed by the various programs employees. The DMS does not maintain a timekeeping system or daily activity reports that specify the type of work conducted by employees. The DMS also has failed to review the annual allocations since its inception in 1994 to determine whether the allocations are reasonable. Since no support for the intradepartmental charges were provided, there is no clear audit trail for our office to determine the costs charged to the PPP for the MOU were in fact related to the program. It should also be noted there were many occasions when these other programs exceeded their budgets prior to the transfer of costs to PPP. Only after the transfer of the costs to the PPP did the programs meet their budgets.

Information Technology Services

The PPP incurred information technology costs for certain IT staff time that could not be documented with detailed time sheets. Our office requested additional information as to the reason certain IT costs were passed onto PPP. The DMS provided us with a copy of a signed MOU with the CDFA Information Technology Services (IT) effective February 1, 2008 that resulted in the DMS's IT staff, consisting of three employees, to transition to CDFA IT in support of the CDFA's IT Centralization effort. The DMS would continue to fund the salaries, benefits, and operating expense and equipment (OE&E) costs of the three employees through the direct recovery process, whereby the Weighmaster/Petroleum Branch was charged \$24,560 monthly. The PPP is allocated 50% or \$12,325 of the total monthly cost to DMS.

Discussions with the transitioned IT staff revealed there are no detailed timekeeping records completed by them which could be used to support the intradepartmental charges. Per interviews, Employee A's primary function continues to be to maintain the DMS's approximately 18 databases. Employee B's primary function is to continue to maintain the DMS's website and to assist with the CDFA IT Help Desk that services the entire Department. Employee C has fully transitioned to CDFA IT and no longer provides the DMS with specific IT duties. As a result, CDFA IT transitioned one of its employees (Employee D) to work part-time at the DMS maintaining hardware and also assisting with CDFA IT Help Desk. It appears the CDFA IT charges for the three employees are allocated to the DMS programs that generate special revenues, although the entire DMS and sometimes the Department receive the benefit. The DMS should adopt the State Administrative Manual (SAM) Section 8752 and SAM Section 8758 which states intradepartmental charges are to be charged at full cost for goods or services provided. Since no support for the intradepartmental charges were provided, there is no clear audit trail for our office to determine whether the costs charged to the PPP are reasonable and justifiable.

Prior to the transition in 2008, two of the three DMS IT staff's labor costs were being allocated 75% to the PPP, or approximately \$131,000 annually, and the remaining 25% to a single program within the DMS without timekeeping records specifying the type of work conducted. Since the transition, PPP is now annually allocated approximately \$148,000, as noted above. As previously mentioned, since the PPP does not maintain a detailed timekeeping system, our office cannot verify whether the cost allocated to the PPP was a true reflection of services provided to the program.

Recommendations

- 1. The PPP should determine whether the allocation of costs from various other internal programs was appropriate. Furthermore, DMS employees who conduct work for various programs should maintain a timekeeping system that specifies the type of work performed on a daily basis. This will allow costs to be tracked and appropriately allocated.*
- 2. The PPP should require the CDFA IT to provide supporting documentation, such as employee time sheets, for the continuing monthly charge of \$12,325.*

LACK OF SUPPORT FOR INCURRED SALARIES AND WAGES**Detailed timekeeping records not maintained**

Personal services costs represent the largest expenditure for the PPP averaging approximately \$2.2 million per year. Currently, 31 position numbers are listed as available for the PPP. 100% of the personal services costs for six positions are allocated to the PPP, while 75% of personal services costs for the 25 other positions are allocated to PPP. The remaining 25% of personal services costs for the 25 positions are allocated to the Weighmaster Enforcement Program (WEP). Although personal services costs are the largest cost for the program, our office notes internal control weaknesses since the employees are not required to maintain a detailed (functional) time sheet or any other type of activity report specifying the type of work performed. This level of detail would benefit the DMS and PPP by substantiating work activities performed by its employees and demonstrating the labor costs allocated to PPP were related to petroleum activities and not to another program. Furthermore, by requiring employees to complete and submit time sheets that specify the type of work conducted, the DMS would have a basis, such as actual labor hours, to justify the cost allocations. The cost allocations then can be reviewed annually for changes to illustrate a more accurate allocation of costs to the different programs. Since the DMS and the PPP do not maintain a timekeeping system, our office cannot verify whether employees' labor costs allocated to the PPP for the audit period are reasonable or justifiable.

Allocation of Director of DMS Personal Services Costs

For the three-year audit period, the DMS allocated the entire personal services costs for its Director to the PPP and WEP on a 75%/25% split. This amounted to PPP having in excess of \$294,000 of allocated personal service costs. This is unusual, as noted in the organization chart previously displayed, since the Director is responsible for overseeing three branches and nine separate programs of the Division. One of the nine DMS programs is the centralized administrative services branch. 100% of the costs in the centralized administrative services branch are allocated to the other eight programs based on their percentage of personal services costs. It would be more logical for the Director's personal services costs to be charged to centralized administration and subsequently allocated among the eight other programs based on a percentage of personal services expenditures. Had this been the case, the PPP would have absorbed only 42% or 43% of the Director's annual costs for salaries and benefits, or approximately \$169,000, rather than 75% in each of the three years audited.

Information provided to Support SB 260

The PPP's salaries, wages, and benefits reported monthly and submitted in support of SB 260 were based on estimates by employees. For the three year audit period, the PPP's salaries, wages and benefits represent 42% to 43% of total for the entire DMS. As previously mentioned, the PPP do not maintain a detailed timekeeping system. Therefore to support the salaries, wages, and benefits expenditures, the PPP's supervisors interviewed employees regarding time worked on various petroleum related activities. The numbers/percentages listed on the Employee Activities worksheets in support of SB 260 are based on the employees' best estimates. Employees were asked to estimate the percentage of total time the employee spent on petroleum activities versus weighmaster activities, and to estimate the percent of total time spent in the following petroleum activities: investigations, case preparation, court time, fines or penalties assessed to violators and for adjudicated cases, and other activities. Since the employees did not keep detailed time sheets, they could only provide estimates. Absent actual source documents, our office is unable to determine whether the estimates provided by employees were reasonable.

Recommendations

3. *The DMS should make improvements in the manner in which employees account for their time and activities. At a minimum, employees that are not 100% charged to a program should be required to complete a functional time sheet specifying the number of hours worked for each program on a monthly basis. The functional time sheets could be further supported by activity reports that further detail the work performed. The improved timekeeping system would provide justification that the work conducted was petroleum related and ensure accountability over expenditures.*
4. *In the instances where costs are allocated among different programs on a percentage basis, the DMS should maintain supporting documentation justifying the basis for such cost allocations. Furthermore, the allocation percentages should be reviewed on an annual basis to determine whether changes are needed.*
5. *The DMS should not solely allocate the Director's personal services costs to PPP and WEP. It would be more appropriate to charge the Director's personal services costs to DMS administrative services branch, where all costs are subsequently allocated among the other programs based on personal services costs.*

OUTDATED LABORATORY DATABASE SYSTEM

The PPP's laboratory database system does not provide timely and easily verifiable information. In addition, the declarations provided with SB 260 could not be supported. The PPP operates two chemistry laboratories, in Sacramento and Anaheim. 100% of the costs to operate both laboratories are paid for by the PPP. The current laboratory database system is outdated and has many limitations such as the inability to routinely report results or prepare timely reporting, and requiring manual documentation of various product tests data. For example, inquiries as to how many complaints were tested by the laboratories, by the type of petroleum/automotive product, must be manually documented. The PPP has attempted to

update the system but was unsuccessful due to their inability to transfer all the information from the old database. In order for the PPP's laboratory to operate efficiently, a vital and essential component would be to have a user-friendly database that is accessible to both chemistry laboratories and provides reliable and timely information. The PPP should consider investing in a database that better suits their needs.

The PPP prepared documentation relating to laboratory expenditures in support of their SB 260 filing; however, it was prepared without supporting documentation. The PPP's preceding supervising chemist prepared the following chart.

Product (A)	# Samples (B)	Estimated Hours to Perform Tests (C)	Hours per Sample = (C) / (B)	% of Samples = (B) / (BD)	% Time Spent (Hours) = (C) / (CD)
Gasoline	1499	1339	0.89	49.7%	43.1%
Diesel	366	338	0.92	12.1%	10.9%
Brake Fluid	72	78	1.08	2.4%	2.5%
Engine Coolant	169	270	1.60	5.6%	8.7%
Kerosine	4	5	1.29	0.1%	0.2%
Motor Oil	508	593	1.17	16.8%	19.1%
Gear Oil	140	161	1.15	4.6%	5.2%
ATF	261	326	1.25	8.6%	10.5%
Total (D)	3019	3111	1.03	100.0%	100.0%

The chart outlines by petroleum/automotive product, the number of samples taken, the number of hours spent testing, the number of hours spent per sample, the percentage of samples compared to total samples taken, and the percentage of time spent compared to the total hours for a 15-month period, January 1, 2008 through March 31, 2009. Interviews with the current supervising chemist verified that the data was manually generated, cannot be verified to existing source documents, and the estimated hours to perform tests were standards provided from the previous supervising chemist. However, no support was available.

The PPP estimated expenditures allocated to the laboratory by annualizing the salaries of the laboratory chemists and deriving a percentage of total PPP expenditures. This percentage was then applied to the total expenditure costs for a 12-month period, July 1, 2007 through June 30, 2008 taken from the PPP's expenditure report, to arrive at the laboratory allocation of expenditures of \$866,842. These results were presented in support of the SB 260 filing.

Recommendation

- The DMS and the PPP should update to a user-friendly database that is accessible to both chemistry laboratories, and provides reliable, timely, and verifiable information. In addition, the laboratory chemists should maintain a timekeeping or daily activity system that will allow them to develop and maintain standards for performing testing on their various products.*

LABORATORY WORK LOAD

Interviews with PPP concluded that the laboratory workload involving the processing of samples needs to be evaluated in order for employees to operate more consistently and efficiently. Discussions with the PPP's supervising chemist disclosed that laboratory tests are performed on an as-needed basis. The laboratory's testing priorities are based on complaint samples, follow-up complaint samples, survey samples, and routine samples. There is no set time to complete a test due to the number of samples the laboratory has for a given test, instrument limitations, whether tests need to be running concurrently, and the requirements of a test. Since there is no type of schedule or other coordination with the inspectors that collect the samples, except for priority order, the laboratory's work load varies monthly. There were instances where the employees of the laboratories had no samples to analyze, whereas in other instances employees were swamped with a sudden influx of samples. The laboratory should have a steady inflow of samples in order to operate consistently and efficiently in support of its program's mission.

Recommendation

7. *The DMS and the PPP should better coordinate the manner in which samples are collected and processed within its laboratories to ensure a more consistent and efficient workload.*

LACK OF MONITORING COSTS ASSOCIATED WITH FLEET VEHICLES

The DMS exposes itself to loss since it does not have a system in place to monitor Voyager card costs associated with its fleet of 38 vehicles. Each of the DMS State vehicles is accompanied with a Voyager card that allows employees to purchase gas for the vehicle. In addition, employees stated Voyager cards are used to purchase samples of petroleum and automotive products for the laboratory to perform tests. All charges incurred by employees are electronically forwarded on a monthly basis to the CDFA Financial Services Branch (FSB). The FSB pays the charges and posts the costs to the DMS programs. A Voyager post audit report is sent back to DMS on a monthly basis by FSB for review. Our office noted the Voyager post audit reports that were sent to the DMS were not distributed to field offices or reviewed by employees or supervisors to ensure improper charges are not occurring. Furthermore, the DMS does not require employees to submit receipts or supporting documentation for the charges made on the Voyager card. Without supporting documentation for the charges made on the Voyager card, we are unable to verify whether purchases made were appropriate.

Recommendations

8. *The DMS should establish and maintain a system of checks and balances to ensure costs associated with its fleet vehicles are proper and business related.*
9. *The DMS should distribute the Voyager post audit reports to its employees and their supervisors for review on a monthly basis to ensure all charges are related to PPP activities.*

LACK OF INTEGRATING COMPLAINT DATA

The PPP does not efficiently or uniformly handle complaint data in its four offices. The PPP's complaint data is collected annually from its four offices, the laboratory data from complaint samples resides in four separate databases, and statistical data is compiled manually on an as-needed basis. Complaint forms and logs are manually maintained, making it difficult to find and retrieve information. Laboratory data is stored on an outdated database, whereby simple inquiries are time consuming because they are hand-counted. For example, inquiring how many complaints there were from each laboratory, per year, by the type of petroleum/automotive product requires hand-counting from the laboratory's database system. An updated electronic database for the PPP's complaints would be a useful resource for making inquiries and receiving answers in a timely manner.

Since information is collected annually from its four offices, the process to track complaints during the year is difficult. The DMS should establish and maintain a single electronic database in which all complaint data from its offices are stored in one location. By maintaining a single database, the DMS would not have to annually compile data from all its offices, a process which is lengthy and not an efficient use of DMS resources. A single database would also make it readily accessible to retrieve information and gather statistical data.

Recommendation

10. The PPP should establish and maintain a single electronic database for complaints. This process would make the complaint data readily accessible and retrievable for performing statistical analysis.

PROCESSING OF COUNTY PETROLEUM SUBVENTION CONTRACTS

The County Petroleum Subvention Contract invoices should be handled by the DMS Administrative Services Branch in order to ensure that the appropriate supporting documentation is maintained, and the correct amounts are paid and posted to the correct accounts. The DMS contracts with counties to perform initial inspections of a location where the primary business is the sale of petroleum products (i.e., retail service stations, distributors or engine fuels, oils, quick lube shops, etc). Each quarter, the counties send an invoice for the number of inspections performed, along with the accompanying petroleum product inspection reports, to the DMS. The contract states that DMS will pay the counties \$75 for each inspection performed. The PPP does not have an electronic database to record the places inspected, whether follow-ups are necessary and have been completed or turned into an investigation, or if all the petroleum products inspection reports have been submitted, etc. A database such as the one described could provide valuable information as to whether the counties are inspecting the same businesses more often than others, which businesses have continuous violations, etc.

Currently, the Weighmaster/Petroleum Branch handles all functions related to the County Petroleum Subvention Contracts. Our office noted there is limited oversight to ensure the appropriate supporting documentation is maintained, and the correct amounts are paid and

posted to the correct accounts. For example, in FY 06/07, our office noted instances in which weighmaster invoices appeared in the PPP's county subvention accounts, thus the total payment made to the county appeared to be more than the stated contract amount. The DMS's centralized Administrative Services Branch would best serve the Weightmaster/Petroleum Branch with oversight functions to prevent further instances such as weighmaster invoices appearing in the PPP's account.

Recommendation

- 11. The County Petroleum Subvention Contract invoices should be handled by the DMS centralized Administrative Services Branch in order to ensure that the appropriate supporting documentation is maintained, and the proper amounts are paid and posted to the correct program.*

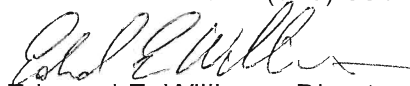
DIVISION OF MEASUREMENT STANDARDS RESPONSE

State of California

Memorandum

To : Ron Shackelford, CPA
Weighmaster/Petroleum Branch

Date: March 2, 2010
Place: Sacramento
Phone: (916) 651-8774

From : Department of Food and Agriculture -  Edmund E. Williams, Director
Division of Measurement Standards

Subject: Response of the Petroleum Products Program (PPP) Audit

Thank you for the opportunity to respond to your February 18, 2010 Preliminary Audit Report of the Division of Measurement Standard's Petroleum Products Program (PPP).

I have attached the Division's responses to one specific statement in the text of the Report and our responses to the auditors' recommendations.

Please call if you need clarification on any of the comments or responses we have provided.

EW/EM

Attachment

cc: Nathan Dechoretz, Deputy Secretary, CDFA

California Department of Food and Agriculture

Division of Measurement Standards

Responses to Audit Office – Petroleum Products Program Audit Report #09-085

The California Department of Food and Agriculture (CDFA) Division of Measurement Standards (DMS) believes the following statement on Page 3 in bullet point one of the Executive Summary should be reworded:

“The Metrology, California Type Evaluation, and Measurement Compliance transferred approximately \$1,173,000 of their expenses to the PPP (Petroleum Products Program) over the three year period.”

Hydrogen is defined as a fuel for internal combustion engines (B & PC, Chapter 14, S. 13401(r)). The Hydrogen Fuel Program (HFP) was given a separate Program Charge Account (PCA) Code when DMS entered into a contract in Fiscal Year 2006/07 with the California Air Resources Board (CARB) to develop fuel specifications as mandated by Senate Bill 76 (2005) (S. 13446 of Chapter 14, B & PC). A position that was previously allocated to the PPP was moved to the HFP. The CARB contract expired in 2007 along with the funding, but the position is still allocated to the HFP. It has always been a direct function of the PPP to regulate hydrogen used as a motor fuel under Chapter 14. It was appropriate to charge 100% of the work done by the HFP to the PPP since there was no other source of funding for this work after the expiration of the CARB contract. DMS is currently working to complete a contract proposal with the California Energy Commission's Alternative Vehicle and Fuel Technology Program to continue to develop testing procedures and sampling methods for hydrogen used in fuel cells. In FY 2008/09, 74.9% of the Hydrogen Chemist's time was spent testing petroleum fuels. Only 25.1% of this PY was spent on hydrogen fuel related activities.

Recommendation No. 1

The PPP should determine whether the allocation of costs from various other internal programs was appropriate. Furthermore, Division of Measurement Standards (DMS) employees who conduct work for various programs should maintain a timekeeping system that specifies the type of work performed on a daily basis. This will allow costs to be tracked and appropriately allocated.

Response:

To determine the appropriate allocation of costs the Division has instituted a daily reporting system for all staff assigned to each program. Beginning January 1, 2010, employees from all programs began recording their daily work activities on revised Weekly Activity Report worksheets. These worksheets specifically record the employee's daily work activities and track any work that is performed to enforce the mandates of any other program in the Division

(PPP included). Data collected will be used to ensure that all DMS funds are recorded and allocated appropriately.

See also responses to Recommendation Nos. 2, 3, 4 and 5.

Recommendation No. 2

The PPP should require the CDFA IT to provide supporting documentation, such as employee timesheets for the continuing monthly charge of \$12,325.

Response:

During January 2008 it was determined that DMS would transfer 3 State Personnel Years (PYs) to the Information Technology Services (ITS) effective February 1, 2008. A Memorandum of Understanding between the ITS and DMS stated the following:

1. DMS would pay for the salaries, benefits, and OE&E costs for the 3 PYs through the direct recovery process
2. ITS would decide and direct how the funding would be utilized with their program to best achieve the goals and objectives of the DMS
3. ITS would provide a service level of agreement (SLA) with DMS

DMS has shared the recommendations in the Audit Report with the Chief Information Officer and CDFA Executive Management. DMS has no direct control over the activity reporting of these resources. Beginning July 1, 2009, all DMS costs for ITS are distributed based on the percentage of each program's annual allocated budget within the total DMS budget.

ITS serves a crosscutting role such as Executive and Administrative Services within CDFA and is considered an overhead function of the Divisions' budgets. With the advent of centralization it was mutually agreed by each Division that IT resources could be utilized on an enterprise level throughout the Department. The basis for charges to each Division will be reviewed periodically to determine whether the current allocation is relevant and equitable, and/or if adjustments are necessary.

Recommendation No. 3

The DMS and the PPP should make improvements in the manner in which employees account for their time and activities. At a minimum, employees that are not 100% charged to a program should be required to complete a functional timesheet specifying the number of hours worked for each program on a monthly basis. The functional timesheets could be further supported by activity reports that further detail the work performed. The improved timekeeping system would provide justification that the work conducted was petroleum related and ensure accountability over expenditures.

Response:

DMS agrees with this recommendation. The Weighmaster Enforcement/Petroleum Products Branch has redesigned its Weekly Activity Report worksheet used by employees of the PPP and the Weighmaster Enforcement Program (WEP). Investigators from both Programs may be called upon to perform tasks in either Program and the new worksheet will effectively capture hours spent in each Program. Beginning September 1, 2009 each employee in these Programs has reported their daily activities on these Weekly Activity Reports which are reviewed and signed by their supervisor. Doing so will allow DMS to demonstrate accountability and allocate funding to the appropriate program based on actual time reported.

Recommendation No. 4

In the instances when costs are allocated among different programs on a percentage basis, the DMS should maintain supporting documentation justifying the basis for such cost allocations. Furthermore, the allocation percentages should be reviewed on an annual basis to determine whether changes are needed.

Response:

See also response to Recommendation No. 3.

Division management and most administrative services have been centralized and serve all program areas within DMS. Two administrative positions have been funded based on specific activities performed for specific programs. Beginning July 1, 2009 all costs for positions that perform general managerial and administrative services are distributed based on the percentage of each program's annual budget allocation within the total budget for the Division. Division management will conduct an annual review during the month of January to determine whether changes are needed.

Recommendation No. 5

The DMS should not solely allocate the Director's personal services costs to PPP and WEP. It would be more appropriate to charge the Director's personal services costs to DMS administrative services branch, where all costs are subsequently allocated among the other programs based on personal services costs.

Response:

In accordance to the Schedule 8 (Authorized Positions) the Director's position was originally established in the PPP and WEP. Beginning July 1, 2009 DMS is distributing all costs for the Director's position based on the percentage of each program's annual budget allocation within the total budget for the Division.

Recommendation No. 6

The DMS and the PPP should update to a user friendly database that is accessible to both chemistry laboratories, and provides reliable, timely, and verifiable information. In addition, the laboratory chemists should maintain a time keeping or daily activity system that will allow them to develop and maintain standards for performing testing on their various products.

Response:

DMS' PPP laboratory analytical test data is reliable and verifiable. DMS PPP laboratory participates in National level "Round Robin" testing of samples with other private petroleum and State regulatory laboratories to assure staff competency and compliance with ASTM International and SAE International testing standards. In addition the PPP laboratory has developed and follows a detailed quality control manual. Standards and test procedures used in the chemistry laboratories are developed by consensus organizations such as ASTM International and SAE International and the laboratory is bound by statute and regulation to follow them

The chemistry laboratory currently uses a database system that was developed many years ago. Reports generated by this system are generated manually and thus take a considerable amount of time to develop. Routine reports issued to staff and generated by the system work very well and are accurate and precise. However, it is difficult to develop summaries or specific detailed reports from this antiquated system. The existing system is under review and procedures are being streamlined to gather necessary data for specific queries and will be used by both chemistry laboratories.

Both laboratories need an updated database. However, the PPP does not have the necessary funds available at this time to purchase and maintain a new system such as Laboratory Information Management System (LIMS).

Beginning January 1, 2010 all chemists are reporting their specific daily activities on a report that is signed by the employee and reviewed and signed by their supervisor. All laboratory operations are focused 100% on the enforcement of Chapters 14 and 15 of the Business and Professions Code. Laboratory time for testing products varies due to the type of test required for each specific sample. Each test is recorded and this establishes the time taken on the test.

Recommendation No. 7

The DMS and the PPP should better coordinate the manner in which samples are collected and processed within its laboratories to ensure a more consistent and efficient workload.

Response:

DMS PPP has an existing monthly sampling plan that targets a number of samples of a variety of fuel and automotive products for each field investigator to collect and submit to the laboratories. Additionally, county weights and measures officials take and submit samples based on

complaints they receive. Market forces require some flexibility. Sometimes seasonal issues such as increased incidence of water in fuel during rainy periods make it difficult to determine a monthly workload for the laboratories. Beginning April 1, 2010, the Sacramento PPP laboratory will begin quarterly reporting of statistical data of product and samples taken by field staff. The system will also produce an annual report at the end of each calendar year. This report will be used to establish the target sampling plan for the next calendar year. We expect to begin quarterly reporting in the Anaheim laboratory by July 1, 2010.

Recommendation No. 8

The DMS should establish and maintain a system of checks and balances to ensure Voyager Card costs associated with its fleet vehicle are proper and business related.

Response:

The Division already has a check and balance system established. The current procedures for all fleet vehicle costs are as follows:

1. Invoices are forwarded to the Division's Administrative Services Unit (ASU) for review and approval.
2. Personnel in charge of invoice payments ensure all costs are accurate, and within SAM guidelines before approving them for payment. This includes ensuring Fleet approval for any costs over \$500.
3. Approved invoices are submitted to Financial Services for payment.
4. A copy of the invoice is filed in the vehicle folder that is maintained by the ASU for the entire DMS fleet vehicles.

Recommendation No. 9

DMS should distribute the Voyager post audit reports to its employees and their supervisors for review on a monthly basis to ensure all charges are related to PPP activities.

Response:

When DMS receives the necessary documentation from CDFA's Administrative Services Division it will implement the distribution of the bi-monthly Voyager post audit reports to supervisors starting January 2010. In addition DMS will request training on how to access the new Voyager database so supervisors/managers will have the ability to monitor charges on a timely basis effective March 2010.

Recommendation No. 10

The PPP should establish and maintain a single electronic database for complaints. This process would make the complaint data readily accessible and retrievable for performing statistical analysis.

Response:

To change our existing system requires additional computer programming resources that are very limited at this time. DMS receives hundreds of consumer complaints each year. Under the current system, the general complaint form is on the DMS website as a PDF form that can be filled out on-line. However, due to the current configuration the complaint form must be printed submitted to the Division by mail. The complaint is assigned to a Branch Chief who assigns it to a Program, but there is no central database. The "Free Air and Water" complaint form is received by the ASU and is assigned to a member of the PPP.

The ITS programmer, ITS website designer, DMS branch chiefs and DMS program supervisors are working to automate the complaint process. DMS and ITS have identified three main areas in the complaint process. The first is the accessibility and ease of submitting a complaint. Second, a centralized location would be necessary to record complaints, document status over time and final resolution. Finally, a simple process would be needed to analyze and/or summarize information in a summary report.

DMS plans to develop this central complaint database and reporting system within one year.

Recommendation No. 11

The County Petroleum Subvention Contract invoices should be handled by the DMS centralized Administrative Services Branch (ASU) in order to ensure that the appropriated supporting documentation is maintained, and the proper amounts are paid and posted to the correct program.

Response:

DMS ASU assumed all accounting functions for the Subvention Contract effective October 1, 2009. Procedures have been developed and implemented so personnel in charge of processing the invoices can have the proper checks and balances to ensure supporting documentation is maintained, and the proper amounts are paid and posted to the correct account.

CDFA EVALUATION OF RESPONSE

A draft copy of this report was forwarded to the management of the Division of Measurement Standards, for their review and response. We have reviewed the response and it satisfactorily addresses the findings contained in this report.

DISPOSITION OF EXAMINATION RESULTS

The findings in this report are based on fieldwork my staff performed on August 25, 2009 through October 6, 2009. My staff met with management on November 9, 2009 to discuss the findings and recommendations, as well as other issues.

This report is intended for the CDFA Division of Measurement Standards for their review and action if necessary. However, this report is a public document and its distribution is not restricted.

REPORT DISTRIBUTION

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